

**MINUTES  
of the  
FIFTH MEETING  
of the  
INDIAN AFFAIRS COMMITTEE**

**October 2-4, 2006  
Mescalero, New Mexico**

The fifth meeting of the Indian Affairs Committee for the 2006 interim was called to order by Senator John Pinto, chair, on Monday, October 2, 2006, at 10:35 a.m. at the Inn of the Mountain Gods in Mescalero, New Mexico.

**Present**

Sen. John Pinto, Co-Chair  
Sen. Rod Adair (10/3)  
Rep. Ray Begaye  
Sen. Dianna J. Duran  
Rep. Irvin Harrison  
Rep. Manuel G. Herrera  
Rep. Patricia A. Lundstrom  
Sen. Lidio G. Rainaldi  
Sen. Nancy Rodriguez (10/2, 10/3)  
Rep. Don L. Tripp (10/2, 10/3)  
Rep. W.C. "Dub" Williams

**Advisory Members**

Sen. Joseph J. Carraro  
Rep. Nick L. Salazar  
Rep. Gloria C. Vaughn

**Absent**

Rep. James Roger Madalena, Co-Chair  
Sen. John C. Ryan  
Sen. Leonard Tsosie  
Rep. Teresa A. Zanetti

Sen. Ben D. Altamirano  
Rep. Ben Lujan  
Sen. Richard C. Martinez  
Rep. Debbie A. Rodella  
Sen. William E. Sharer

(Attendance dates are noted for those members not present for the entire meeting.)

**Staff**

Charles H. Van Gorder  
Larry Matlock  
Kate Ferlic

**Guests**

The guest list is in the meeting file.

## **Handouts**

Copies of all handouts and written testimony are in the meeting file.

## **Monday, October 2**

### **Welcome and Status Update**

Celina Chino, first lady of the Mescalero Apache Tribe and director of retail operations for the Inn of the Mountain Gods, and Dale Webb, tribal administrator for the Mescalero Apache Tribe, welcomed the legislators to Mescalero and gave a status update on tribal affairs.

From Mr. Webb's perspective, a tribe should run like a business. The Mescalero Apache Tribe owns a telephone company, two sawmills, a 1,600-head cattle operation, a gas company (Mescalero Gas), a tribal store, a ski resort (Ski Apache) and the Inn of the Mountain Gods Resort and Casino, which has 1,200 to 2,000 employees with a minimum wage of \$7.50. The 2005 and 2006 audits are in compliance. Future plans include building a bioelectric generator for the spaceport, putting a skateboard park on the reservation, upgrading a fish hatchery and construction of a new firehouse for which the legislature gave \$2.5 million last year.

Two primary concerns for the tribe are education and health care. For education, the tribe wants more college and skill-based trade opportunities for local students. The high school and vocational programs are currently funded by Bureau of Indian Affairs grants. For health care, the tribe is looking for capital outlay and federal grants to establish more programs, including care for the elderly, preventative medicine, a psychologist and emergency care. While the tribe recognizes funding limitations in that commingling is not permitted, they plan to ask the legislature for capital outlay funds to provide for a tribal psychologist. One legislator recommended that the tribe solicit a Project ECHO location in Mescalero to address and prevent hepatitis C. The tribe also hopes to get funding to establish an economic development department. Lastly, the tribe is thinking about refinancing the resort, but has not yet considered bonding the project. Currently, the resort is a public company.

On a motion by Representative Lundstrom, seconded by Representative Williams, the committee unanimously voted to write two letters — the first to Dr. Aurora of Project ECHO to encourage creating a location in Mescalero and the second to Mark Cross to encourage a general assessment be performed for economic development purposes. On a motion by Representative Begaye, seconded by Senator Rainaldi, the committee voted unanimously to write a letter to the New Mexico congressional delegation requesting full funding of the Indian Health Service (IHS) in Indian country. The letter should also be sent to the secretary of the interior requesting support.

### **Department of Health — Update**

Michelle Lujan Grisham, secretary of health, reviewed statistics of racial and ethnic health disparities in New Mexico. The department issued a report card on these issues on August 30, 2006, which Secretary Grisham distributed at the meeting. She emphasized that alcoholism,

infant mortality, obesity, diabetes and suicide rates are problematic within Native American communities. Secretary Grisham emphasized the need to involve Native Americans in data and research, recognize tribes as health care providers and include these communities in government planning efforts. A priority for the department is to increase access benefits. For example, the department helped get a \$900,000 grant for minority health services with a focus to train medical interpreters. The department hopes to see more wellness centers on reservations and is committed to recruiting health care professionals through stipends and loan forgiveness. In terms of successes, most new money coming into the department is focused on Native American and Hispanic communities.

In order to combat obesity, the department banned junk food in schools. Future goals include New Mexico-grown produce in schools and a ban on sodas. New Mexico is highly ranked in dietary standards for schools. One legislator requested information on the new height/weight charts issued by the federal government for evaluating body mass indexing. In response, the secretary suggested students be charted annually on these statistics and their parents be informed of the results. This idea is modeled on an Arkansas program, where it cost \$1 million to implement.

With the high rate of teen pregnancy and the concern with sexually transmitted diseases, the department is focused on sex education. New Mexico received "abstinence-only" federal funds that Secretary Grisham will direct into an education pilot program for the 18-29 age group. In response to concern from legislators about not reaching enough students, Secretary Grisham reported that the department has never had the money to institutionalize a comprehensive sex education program. New Mexico's HIV-AIDS program is strong, which Secretary Grisham credits for a decrease in transmission rates.

### **Access to Healthy Foods**

Pam Roy, coordinator of the New Mexico Food and Agriculture Policy Council, Representative Herrera and other members of a New Mexico delegation attended a conference on access to healthy foods on September 8, 2006 in Philadelphia. "Mobile Foods", a transportation system that takes groceries to rural areas without grocery stores, could be a successful program in rural New Mexico. After discussing rural communities' inability to access healthy foods, Ms. Roy proposed that these communities partner with farmers' markets and private and nonprivate sectors on providing locally grown foods for local needs. Currently, a program exists called "Healthy Kids and Healthy Economy", which acquires local produce for school lunch programs. A successful private project is underway at the Pueblo of Zuni focusing on kids eating fresh fruits and vegetables. The project is funded by a \$1 million congressional appropriation that gave \$40,000 to 25 schools.

In low-income areas, people spend 13 to 26 percent of their annual income on groceries. In New Mexico, a basket of healthy food in an urban area is \$55.00 compared to rural areas where the same basket costs \$85.00. Because fuel costs are high and the state is large, the best option is to create a systematic approach to help communities build on local economic

development opportunities to provide better food. A good example is the Dixon Co-op, which was initiated on a small planning grant. Also, small initiatives like moving healthy foods to the front of the store have been successful. Craig Mapel, marketing specialist with the New Mexico Department of Agriculture, works with public schools and senior programs in Rio Arriba and Santa Fe counties and emphasized that distribution is the largest hurdle facing healthy foods initiatives.

Ms. Roy asked legislators to consider sponsoring a memorial this upcoming session and to be prepared for and supportive of bills for the 2008 session. Legislators are concerned about the long-term health care costs of people eating unhealthy foods, living with obesity and living with high cholesterol. The committee requested that Ms. Roy gather information on some of the federal programs.

The meeting was recessed by Senator Pinto at 5:10 p.m.

### **Tuesday, October 3**

The meeting was reconvened by Senator Pinto on Tuesday, October 3, 2006, at 9:15 a.m. at the Inn of the Mountain Gods in Mescalero, New Mexico.

### **Indian Reservation Roads Bonding Program — Update**

Mark Valenzuela, director of governmental affairs and legislative finance strategy for the New Mexico Finance Authority (NMFA), and Paul Cassidy, managing director of RBC Capital Markets, presented information on the GRIP program. In 2004, NMFA obtained \$700 million in new money bonds and spent \$550 million. Last year, NMFA acquired another \$450 million in bonds at an interest rate of 4.51 percent. Despite an increase in construction costs, there has not been a negative impact on the bond rating. In fact, due to the Department of Transportation's lien structures and the fact that the debt has not exceeded the original maturity, the rating has improved.

In general, bonds are taxable or tax exempt, which allows interest earnings to be free from federal and, often, state taxes. Tax-exempt bonds are limited to governmental entities, cannot be used for annual operating budget needs or investment purposes and must be spent quickly (typically within five years). Bonds can be issued pursuant to specific revenues (i.e., water system fees) or tied to property taxes (general obligation bonds). New Mexico sells approximately \$2 billion in debt annually. New Mexico was the first state to issue highway debt secured only by federal revenues.

Mr. Valenzuela presented two options for developing a bond program for transportation on tribal land. First, the state could create a comprehensive Native American GRIP program, which would entail new legislation to establish project criteria, revenues and bond authority. As a first step, Mr. Valenzuela suggested a memorial or grant to fund a study. Second, individual tribes could bond their own programs and seek financing through NMFA or other avenues,

including investment banks. The Ramah Navajo project is a successful example of the second option, although a legislator pointed out that Ramah is in a different position than other Navajo chapters because of its 638 independent status to contract.

On a motion by Representative Lundstrom, seconded by Representative Begaye, the committee voted unanimously to draft a bill creating Native American GRIP for northwest New Mexico as a phase one pilot program.

### **New Mexico State University — Update**

Dr. Donald E. Pepion, director of American Indian programs for New Mexico State University (NMSU), and Patricia Quintana, director of governmental affairs for NMSU, presented an update on the status of Native American students at NMSU and plans for the future of American Indian programs. Even though nine percent of the state's population is Native American, this group only comprises three percent of NMSU's student population. In 2004, retention rates for Native American students were 63 percent compared to 73 percent at NMSU overall. Dr. Pepion hopes the rate will improve with more participation in the voluntary peer mentoring program. Graduation rates, based on a six-year plan, for Native American students are 30 percent compared with 45 percent overall at NMSU. The top three reasons students leave before graduation are lack of academic preparation, social transition and lack of money. Although NMSU ranks fifth in the nation for graduating Native Americans, the availability of more scholarships should increase this percentage.

NMSU received \$3.1 million in funding for a Native American Cultural Center but still needs another \$3 million. Mike Martin, president of NMSU, has spoken with the governor about the money but NMSU wants the legislature to know this is a top priority.

### **Emergency Management**

Ken Tiller from the Pueblo of Laguna asked for legislative support to create emergency manager positions for 22 tribes in order to promote and coordinate emergency response to potential natural and manmade disasters. A Native American section of the Emergency Managers Association was founded two years ago and tribes are seeking to expand their response capabilities for the safety and welfare of tribal members and larger New Mexico communities. Mr. Tiller explained that tribes need development and oversight of their individual emergency operations plan to be implemented by these newly created positions. Mr. Tiller asked legislators to consider sponsoring legislation to fund the position for the 22 tribes at a cost of \$60,000 per tribe. One legislator suggested that prior to capital outlay requests, communities need to prepare emergency response system plans. After the planning documents are updated, legislators will be more open to capital outlay.

### **Civil Rights Issues — Farmington**

William E. Standley, mayor of Farmington, Bob Hudson, city manager for Farmington, Michael Burrige, chief of police for Farmington, and Lyndy D. Bennett, district attorney for the Eleventh Judicial District, reported the results of the Clint John investigation, solicited questions

and talked about racial tensions in Farmington. Clint John was a Navajo man killed by a member of the Farmington police force in the Wal-Mart parking lot. While the investigation failed to uncover any misconduct, the case raised concerns about race relations and intolerance in Farmington.

The district attorney's office recently filed charges against three white men who beat an intoxicated Navajo man. In this case, the district attorney filed a petition for the hate-crime sentencing enhancement. Seventeen percent of Farmington is Native American, equal to a population of approximately 44,000. There are no Native Americans on the four-member city council, but of the five county commissioners, two are Native American. Farmington hopes to hire a specialist to teach best practice standards to the Police Advisory Board and address solutions that have worked in other cities that border Native American communities.

On a motion by Representative Lundstrom, the committee unanimously agreed to recess the meeting at 3:55 p.m.

### **Wednesday, October 4**

The meeting was reconvened by Senator Pinto on Wednesday, October 4, 2006, at 9:22 a.m. at the Inn of the Mountain Gods in Mescalero, New Mexico.

### **Tribal Infrastructure Fund**

Benny Shendo, secretary of Indian Affairs, presented past project review criteria for last year's appropriations. In the 2004 session, \$3 million was appropriated to the Department of Finance and Administration (DFA) as "tribal infrastructure". DFA requested tribes submit their top three priorities and then consulted with IHS, the Indian Affairs Department (IAD) and NMFA. From this, DFA was able to leverage \$15 million in projects. Last year, no money went directly to the Tribal Infrastructure Fund (TIF) because there has not been a way to activate the board. The TIF was established as a mechanism for appropriating money from both interest and corpus of the fund, which receives funding from a variety of sources, including legislative appropriations. This year, the board has been activated and IAD resources were used to pay for travel. For money for the upcoming year, the TIF Board sent letters to all tribes and Navajo chapters requesting proposals — based on the infrastructure capital improvement planning (ICIP) process — be submitted for funds by September 20. Currently, there are \$30 million in projects and only \$5 million available. The TIF board will review applications and decide on projects primarily based on readiness and leveraging. The TIF aims to have chosen projects by October 30. Secretary Shendo cautioned that in the 2007 session, any appropriated amount less than \$10 million will be insufficient.

Legislators discussed concerns over duplication of requests and the lack of legislative oversight when TIF determines what projects receive funding. One legislator suggested getting rid of the board altogether. Generally, legislators agreed the original bill had been rushed and changes need to be made this session. On a motion by Representative Lundstrom, the committee

unanimously agreed to change the TIF statute to include legislative oversight.

### **Capital Outlay and the Navajo Nation**

The TIF Board has not developed policies on how to reconcile issues around Navajo Nation capital outlay, particularly with the Transportation and Community Development Committee (TCDC). The legislators agreed that the TIF Board cannot encumber the Navajo Nation under current Navajo law by giving money directly to chapters. However, Secretary Shendo and the IAD hope to work with the Navajo Nation and its chapters to help streamline the internal process to minimize bureaucratic hurdles. The IAD is concerned that money is getting to the chapter houses. Casey Begaye from the Navajo Nation Capital Improvement Department and Arvin Mitchell of Navajo Nation community development answered the committee's questions on the Navajo Nation's procedure for obtaining and distributing funds. The Navajo Nation has been losing millions of dollars from not being able to fully fund projects. The Navajo governance is currently working on making its processes more efficient. In fiscal year 2006, the Navajo Nation developed a policy that all requests funnel through the CIO process and then be approved by TCDC and IGR.

Latonya Vicente, attorney for the Navajo Nation, stated the nation's position on Senate Bill 579 as unchanged. The Navajo Nation believes that the bill circumvents Navajo law and infringes on sovereignty with respect to direct payments. The bill allows political subdivisions to be vendors and receive direct payments while the nation's laws require central government approval to protect the nation's best interests. Other concerns include liability and whether the joint powers agreement process applies to SB 579. Ms. Vicente has written Secretary Shendo in regard to many of these outstanding questions and has not received a response. In general, the Navajo Nation requests that this bill be repealed. On a motion by Representative Lundstrom, seconded by Representative Harrison, the committee unanimously voted to ask the IAD to respond to all inquiries that come in writing, especially concerning who serves as the fiscal agent for the TIF. Senator Rainaldi amended the motion to include better communication by the Navajo Nation on accountability and suggestions to resolve the current dilemmas. On a motion by Senator Pinto, seconded by Representative Salazar, the committee unanimously agreed to go on record requesting to include the funding of the Navajo Nation building construction.

### **Adjournment**

There being no further business before the committee, Representative Salazar moved and the committee unanimously agreed that the fifth meeting of the Indian Affairs Committee for the 2006 interim be adjourned at 12:41 p.m.